

THE
Land Laws of Canada
and the
Land Experience of
The United States

by
Ditlew M. Frederiksen



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LAND LAWS OF CANADA



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LAND EXPERIENCE OF
THE UNITED STATES

"The most expensive things in the world are those you get for nothing."

An Irishman, wishing to take a "homestead" and not knowing just how to go about it, sought information from a friend.

"Mike," he said, "you've taken a homestead an' I thought maybe ye could tell me th' law concernin' how to go about it."

"Well, Dennis, I don't remimber th' exact wordin' uv th' law, but I can give ye th' manin' uv it. Th' manin' uv it is this: Th' Governmint is willin' t' bet ye 160 acres uv land agin \$10 thot ye can't live on it three years widout starvin' t' death."

The consideration of the Oliver Bill furnishes an opportunity not only to decide whether the principle of the homestead law, from which the pre-emption law differs but slightly, shall be extended to other land, but also to see how the homestead laws themselves are working; and, believing that there are some things regarding the homestead laws which are neither well-known nor thoroughly understood, I desire to call attention to them.

Historical.

The land laws of Canada are not indigenous, but imported from across the line. Hence it is of interest to note the land experience of the United States, whose example Canada has been imitating. Twenty years ago, at Harvard College, the writer and another young student undertook, under the direction of Prof. J. Laurence Laughlin, a special investigation of the United States Railroad Land Grant System. We took the Illinois Central Road as an illustration, this being the only road that had then "worked out," to see what on the whole had been the result of this railroad grant. Briefly, the land was sold to settlers at from \$4 to \$8 per acre, the country was settled up satisfactorily with a splendid class of settlers, the railroad developed a satisfactory traffic, and the land grant policy cost the Government nothing, since the even sections brought \$2.50 per acre instead of the former price of \$1.25.

Early Land Speculation in the United States.

Before the railroad grants, however, the early history of the United States is of course replete with land speculation. The President had arbitrary powers as to placing land on sale, and did not hesitate to use them. Land speculation was a potent factor for instance, in the financial crises of 1837 and 1857 both. Instead of investing their money in their own business, which they understood, people would put it into land, about the value of which they were sometimes misled; and this misdirection of capital into wrong channels was one contributory cause why a violent financial correction—the panic—was brought about.

The corollary to these sales by the Government to speculators was an organized system of shot-gun defense by settlers and squatters; to defend their land and homes against the speculators who came along and had bought it from the Government. In the Fifties, for instance, at Milwaukee, Wisconsin, it was openly boasted that the squatters' land office did more business than that of the United States Government. In order to avoid being shot you had first to buy a squatter's title, and then, in order to get a good legal title, you had to buy the same land over again from the United States Government or someone else. To all intents and purposes this is still the situation in certain Southern states where the legal title passed from the Government by large grants many years ago, but where squatters hold the actual possession.

Origin of the Homestead Law.

The homestead law in the United States is a rather late arrival—fathered by the slavery question. The "free-soilers" of Kansas wanted to settle this State with free whites and keep the big cotton planters and their slaves out of that part of the West. The area which any one man could take was therefore limited artificially and arbitrarily to 160 acres, and the land was given away free in order to draw small farmers and free whites out into the Western wilderness. The speeches made in Congress at the time the homestead law was passed clearly show this to have been the object of it, but shortly afterwards, at the close of the war, came a period of speculative inflation, with paper currency, rapid fluctuations in all values, new railroads and land grant schemes galore—in general a rapid development of all kinds, resembling in many ways present conditions of the Canadian West. And incidental to this period are the preemption laws and the tree claims, which have now been repealed, but which were, while in existence, chiefly instruments of fraud, enabling settlers and small speculators to acquire 480 acres each instead of the 160 acres provided by the homestead law.

Premature rush to the Dakotas and Kansas.

As to what the result of the homestead law in the United States has been, it must be said that these alluring laws are chiefly to blame for the premature development of the Dakotas with a general inrush of population in the early Eighties, ahead of the railroads and before the character of the country was understood, and before people knew what methods of farming should be

adopted, leaving behind them the magnificent lands of Northern Iowa and Southern Minnesota, which were then ripe for settlement and retailing at from \$4 to \$7 per acre. "Duke's son, cook's son," schoolmarm and others participated in this rush, which resulted in much suffering and in the subsequent abandonment of many claims, both to the Government and, especially later on, to the mortgage companies. In Kansas and Nebraska we have the same story, accentuated by the droughts to which the Western half of those states is susceptible, so that it is estimated that in one year the railroads carried back from Western Kansas over 10,000 people, in order to save them from starvation.

That much suffering and misery and many broken hearts and disappointed ambitions resulted from this untimely movement of human freight cannot be questioned, but after the cheap lands of Minnesota and Iowa had finally been taken up the tide set back towards the West, and on the whole the evil results of the homestead laws at this time can be said to have been temporary in the districts where a 160 acre farm is the normal and natural farm best adapted for the country. It was a means to rid the Government of the lands, and as an almost invariable rule someone else than the original homesteader soon got them by purchase or foreclosure. In South Dakota over half of certain counties was at one time owned by the mortgage companies. These became insolvent, their bondholders got the land, and sold it for a song. In Kansas most of the land was sold for taxes, and thus, in the Western counties at least, the title passed from the homesteaders to the speculators and dealers, who sold them later on, fairly cheap it must be said, to actual farmers and ranchers.

How the Homestead Law worked in the Ranching Country.

In large districts, however, the 160-acre law did not fit the country, and here the evils these laws did lives after them. I clip from a recent Nebraska editorial (Independent Farmer, May 2nd, 1907):

"It is notorious that settlement and final proof upon public lands in Nebraska has been accompanied for years with flagrant violation of the spirit and letter of the United States land law. What amounted practically to contract of sale by the claimant before making his final proof was common enough. And payment of the expenses of a claimant in order to get possession of a piece of land was also frequent. Very few of these offenders were ever punished. The attempt by Land Commissioner Sparks during Cleveland's first administration to hold up and set aside thousands of entries on the ground of fraud in many of them was met with such a popular outcry in the West, partly political and partly economic, that the attempt failed, so land grabbing has gone on continually throughout the years.

"There are important differences, however, between the present cases (of the Roosevelt administration) and the common run of land grabbing. First of all, the cases tried were land grabbing by wholesale—on a stupendous scale. The total area of the land

secured by these cattle barons is stated at 350,000 acres—more than half as large as Rhode Island. A large part of this was secured by fraudulent claims."

In fact, the recent law authorizing homesteads of 640 acres in Nebraska is an admission of the fact that for something like forty years this State was laboring under a 160-acre law which was in no sense calculated to develop the natural ranching and cattle raising resources of the country. The rule of course is that where ill-adapted laws have been in effect people have managed to get around them by fraud, but the result has frequently been not merely fraud and perjury, but also violence and murder. Witness the battles between cow men and sheep men for the right to the grass on Government land. The Government land even now is frequently unlawfully fenced in. President Roosevelt is said recently to have complimented a certain rancher on the area of his fine ranch, without knowing that in fact most of the land was Government land held by the rancher in absolute contravention of law.

In his recent (1907) message, President Roosevelt himself refers to this condition as follows:

"The land law system which was designed to meet the needs of the fertile and well-watered regions of the middle west has largely broken down when applied to the drier regions of the great plains, the mountains and much of the Pacific slope, where a farm of 160 acres is inadequate for self-support. In these regions the system lent itself to fraud, and much land passed out of the hands of the government without passing into the hands of the home maker. The department of the interior and the department of justice joined in prosecuting the offenders against the law and they have accomplished much, while where the administration of the law has been defective it has been changed. But the laws themselves are defective. Three years ago a public-lands commission was appointed to scrutinize the law and defects and recommend a remedy. Their examination specifically showed the existence of great fraud upon the public domain and their recommendations for changes in the law were made with the design of conserving the natural resources of every part of the public lands by putting it to its best use. Especial attention was called to the prevention of settlement by the passage of great areas of public land into the hands of a few men and to the enormous waste caused by unrestricted grazing upon the open range. The recommendations of the public lands commission are sound, for they are especially in the interest of the actual home maker, and where the small home maker cannot at present utilize the land they provide that the government shall keep control of it so that it may not be monopolized by a few men."

The Public Lands Commission.

The Public Lands Commission, to which the President refers, calls attention in its 1905 report, especially to the fact that the present land laws do not fit the conditions of the remaining public lands. The agricultural lands are gone. The timber and grazing lands ought not come under the provisions of the law intended for farming lands.

The Commission says that the timber and stone act "has been made the vehicle for innumerable frauds, and the Government has lost and is still losing

yearly, vast sums of money through the sale of valuable timber lands to speculators," and that "the original entrymen rarely realize more than ordinary wages for the time spent in making the entry and completing the transfer. The corporations which ultimately secure title usually absorb by far the greater part of the profit."

The Commission also speaks of the commutation clause of the American homestead act, under which title can be obtained by preemption after only eight months' residence, since six of the fourteen months required by the act may be "constructive" and say that "like many other well-intended acts its original intent (to assist the honest settler) has been gradually perverted until now it is apparent that a great part of all commuted homesteads remain uninhabited." * * * "The homestead shanties of the commuters may be seen in various degrees of dilapidation, but they show no evidence of genuine occupation. They have never been in any sense homes." * * * "A large portion of the commuters are women." These commuters sell immediately upon receiving title. "In the timber and mineral belts the entrymen who have commuted their homestead entries have ceased to reside thereon almost as soon as proof has been made and receiver's receipt issued, while within the agricultural belt at least 6 (six) per cent of the entrymen continued to reside thereon after submitting proof." "In two years after proof the house has fallen down and only very dim signs of a clearing are visible. In three years after proof almost every sign or resemblance of habitation or cultivation has disappeared, and the claim has once more taken on its virgin appearance." "90 per cent of those making commutation entry within these timber and mineral belts are from walks in life where agriculture is not understood and not desired."

"Their wives and families rarely, if ever, visit the claims, but readily consent at time of proof to make affidavit that they refused to accompany their husbands to reside upon the homestead on account of ill health, no school facilities, and no roads. If necessary, they will have their family physician certify that their wives have been under his care ever since entry was made, and that it was impossible for them to reside upon the entry." * * *

Many of these cases have been investigated and the wives found apparently as healthy as any woman would normally be at their age of life, yet we cannot go back of the physician's certificate, or prove that same is false."

"Several hundreds of Canadians have crossed the border, declared their intention to become citizens of the United States, filed on land under the free homestead act, commuted their entries, after a period of fourteen to eighteen months, and then returned to their former homes across the border, and became citizens once more of the Dominion of Canada." * * * "In fact it is common gossip in northern Minnesota that lumber companies operating along the boundary line bring over many Canadians for the purpose of obtaining valuable timber from the Government by means of the commutation clause of the homestead law." * * *

"Inside of one house were counted seven large stumps cut from 2 to 3 feet high, while in the other two houses were found five stumps in all cut equally high from the ground. It was clearly evident that no one resided therein and that the entries must have been obtained under false and perjured

proofs. An examination of the rate books showed that these tracts had been proved up under the commutation clause of the homestead law, and the county records show that same had been transferred on date of proof, and the timber, consisting of nearly 3,000,000 feet of pine, had passed into the hands of a well-known lumber company." * * * "Between the years 1885 and 1890 a certain lumber company of Minnesota * * * obtained thousands of acres of pine lands from the Government under the old preemption law by simply filing names of persons found in the St. Paul (Minn.) and Chicago (Ill.) directories. When time for proof came, one set of men would appear at the local office and make proof on all claims set for that date. This gentleman also stated that he and the said lumber company had a standing agreement with the local land officers whereby they were to permit this kind of proofs for a consideration of \$25 per claim." * * * "It is common knowledge in the city of Duluth, Minn., that in 1892, 1893 and 1894, persons desiring to commute would take an ordinary dry-goods box, make it resemble a small house with doors, windows, and a shingled roof. This box would be 14 by 16 inches, or longer, and would be taken by the entrymen to his claim. On date of commutation proof he would appear at the local office, swear that he had upon his claim a good board house, 14 by 16, with shingled roof, doors, windows, etc. The proof on its face would appear excellent, and was readily passed by the local officers."

"It is well worth any workingman's while to come to North Dakota, rest up on the prairies for eight months, hire about 20 acres broke, build a 'shack,' put in some crop, commute his entry, if he has the cash, and obtain a quarter section of land worth from \$10 to \$15 per acre. If he has not the money he will be advised where he can obtain it, then borrow the largest amount possible, and return to his former home, having cleared on his summer's jaunt \$500 to \$600."

"Who finally gets the land? In almost 80 per cent of these cases the land finally is deeded outright or foreclosed under mortgage lien to the land or loan company first interested." * * * "The result has been in North Dakota that the country is settling up slowly, and hundreds of farmers are prevented from getting good homes on account of the high price of lands now owned and controlled by a few individuals and land companies. The final homestead act works altogether different. Under it, farms and homes are springing up, the value of property to the state and nation is increasing, and everywhere, where five-year proofs have been made thrift and industry have been established."

"Many entries are made by female school teachers, who spend their vacations on their claims, commute the entries, and leave the country as soon as a better paying position can be found elsewhere. The tendency of such commutation has been to leave the territory in an unsettled condition."

After a partial investigation, the Commission finds that 32.6 per cent of the commuting homesteaders in the agricultural section immediately sell their claims, while in the timber section 89.4 per cent immediately sell their land, and in the "prospective mineral belt" 96.7 per cent of all commuted entries were immediately transferred. (Report of the Public Lands Commission (1905) p. 68).

The Commission recommends that the desert land law should be amended

so that only 160 acres can be secured under it instead of 320 acres, and says that "a farm of 320 acres, if irrigated, is entirely too large for a single family, and its possession simply prevents other settlers from coming into the country." * * * "The actual production of a valuable crop should be required on not less than one-fourth of the area of the entry. At present, as a rule, the greater part of the desert entries are never actually watered. Hundreds of desert entries were examined by members of the Commission in the last year, and the great majority of them were found to be uninhabited, unirrigated, uncultivated; and with no improvements other than a fence."

The Commission recommends that grazing permits be issued for grazing lands, and say that "at present the vacant public lands are theoretically open commons, free to all citizens; but as a matter of fact a large proportion have been parceled out by more or less definite compacts or agreements among the various interests. These tacit agreements are continually being violated. The sheepmen and cattlemen are in frequent collision because of incursions upon each other's domain. Land which for years has been regarded as exclusively cattle range may be infringed upon by large bands of sheep, forced by drought to migrate. Violence and homicide frequently follow, after which new adjustments are made and matters quiet down for a time."

Altogether this is not a pleasant chapter of the land history of the United States. Bribes have been paid to let the fences alone. Homesteaders have been intimidated and shot. Timber and coal lands have been thus secured by means of fraudulent entries by the hired "help" of leading citizens, and farms that were not farms have been maintained in the big timber or on mountain sides for five years, for the sole purpose of defrauding the Government of the timber and the coal, and after the commutation law had been passed in 1891, it was not even necessary to reside on the land for five years, the purpose of the land grabbers was accomplished under the commutation law in the manner pointed out as above by the Public Lands Commission in their 1905 report. In Nebraska it was the pasture, in Minnesota the timber, and in Montana the coal, but the story is the same. For all of this the unsuitable 160-acre homestead law must be blamed, homesteading supposedly by actual settlers being the only land policy the Government was following.

In the States the evil results of the homestead laws have been temporary in the farming districts, but permanent in the ranching, timber and mining districts. As far as the Government is concerned, the public domain everywhere was sold for a song or given away, and this wonderful asset, the land, by means of which the wildest dreams of social reformers might have been accomplished, was given away—not as a rule to those who later made farms of them, but were in the early days sold at \$1.25 or \$2.50 per acre to speculators; or were later either stolen by fraud, for the timber or coal, or given, under the homestead law, to a shiftless class of border farmers, who as a rule, mortgaged them or sold them. In either case these border farmers and other middlemen made some money, but the main advance was in the farming districts gained later by the real farmers who had bought the speculators, railroads and homesteaders out at a low price.

What Canada ought to do.

In the United States, public opinion may be compared to a vast, untamed, buffalo herd—hard to guide and direct, and it is frequently easier to evade a law or twist it from its purpose than to cause a better law to be adopted. In Canada, however, conditions are different, and there would seem to be no good reason why an in some respects unsuitable law should be maintained or enacted in Canada influenced by political reasons, when, as a matter of fact, it would be just as easy to enact a thoroughly good one and compel its enforcement. In Canada today it should be as easy to educate public opinion as to pander to it. The public domain or a large portion of it can here still be saved for the whole people and need not be given away free to land speculators.

The same land situation that prevailed in the American West twenty-five years ago prevails in Canada today, and while the American 160 acre homestead law was an admirable measure for the purpose of keeping slavery out of Kansas, it was not a good law to promote the welfare of the citizens or to settle the country in a normal, natural manner with a good class of farmers, and so in Canada today it is very questionable whether a sweeping measure of either 160 or 320 free acres per head is calculated to insure the most normal and stable development of the country. It is to hitch a pony to a coal cart to attempt to start a ranching country out from the parental Government roof from which all titles are derived supplied only with a 160 or 320 acre homestead law. So with a timber, mining, or semi-arctic country. And vice versa, it is to hitch a Clydesdale stallion to a pony cart to expect the 160 acre homestead law to do the work of launching a fruit or an irrigation country on the road to success. Where a 10 or 40 acre farm is large enough, a 160 acre homestead law has no "raison d'être."

The question is: "How can these various regions best be started out on the right road to future success?" How can the land best be transferred to the men who will make the best use of it? We cannot, of course, hope to devise laws calculated to keep future, unborn generations supplied with land—believing in private ownership as we do, but we ought not have laws tending to encourage fraud, nor laws encouraging a man to acquire more land than he needs for his own use, or preventing him from buying what land he actually does need, nor laws tending to favor the speculator—the dog in the manger.

The Non-resident Speculator.

The secondary object of the land laws, as of other laws, is also to promote present human happiness. Hence in starting the new country on the road to future success we should try to do it with as little present human suffering as possible. Of speculators, there are two kinds—one is the nonresident investor, the other is the local border farmer, schemer or homestead shacker. Speculation by the non-resident investor is the first serious evil. Legitimate colonization, on the other hand, whether done by railroad companies or individuals is not an evil. The grain speculator is justified by political economists as the man who foresees a scarcity and causes an early and prudent economy in the use of the limited supply on hand by forcing the

prices up at an early date, but this reasoning would seem to be inapplicable to land. The influence of the land speculator *per se* is purely harmful. "These men, by holding the land so high, are doing a dirty trick to the country," said a Norwegian farmer at Kamsack last summer. What he might have said was, "We can have no schools, no roads, no churches, must have far to neighbors and far to town, can have no telephone, no rural mail delivery, but must live in dreary, deadening lonesomeness and with heavy snowdrifts and howling wolves around us, so that no women will marry us and come to live with us and give us the blessing of little children—in short we cannot make a civilized country out of the wilderness—until all the land is settled up and in the hands of proper farmers, which it will not be for five or ten years yet, so long as A. B. of ———, Ontario, (I do not name him for he sits in Parliament) holds his land all around us at \$15 and \$18 an acre."

Railway Grants have done no harm so far.

In Canada at present it seems to be the Eastern investor and the Hudsons Bay Company rather than the railway companies and the colonization companies that are doing harm to the country. Thus far the Canadian Railway companies seem to have colonized their lands rather than speculated in them, and except insofar as the railways perhaps got a larger and more valuable grant than the people really intended to give them, the land grant policy can not be blamed, since the railways thus far appear to have sold their land chiefly to actual settlers and at low prices. What they will do in the future is another story.

Likewise the colonization companies, which after all have done more than the Government agents toward developing the country, have not as a rule speculated. The most desirable settlers that come into the country—the Americans—are chiefly due to these colonization companies, and the criticism that has been made of certain land companies is due to the fact that some of them have secured land at an unfairly low price from the Government rather than to any inherent public dissatisfaction with their work or their methods.

But, admitting the colonization companies to be useful, the next question is, under a policy of selling the land how can such speculators as Mr. A. B. of ———, Ontario, be kept from buying land. His money evidently would far better be invested in some productive venture at home or some productive venture in the West, where it would give employment to labor and provide freight and passengers for the railroads, than to be invested in wild land, and for this speculator a natural remedy is obvious and close at hand, and Ole Olsen of Kamsack is likely soon to be taxing the land of A. B. of ———, Ontario, so heavily as to remind him that it may pay him better to sell out his land to someone who would improve it rather than to continue to keep it and continue to play the part of the dog in the manger. It is possible therefore, that this evil may after a while correct itself, as it has in the States—aside perhaps from the unpatented lands of the C. P. R. and of the H. B. Co., which now escape taxation.

The Homestead "Shacker."

But the non-resident speculator who has "cornered" the intervening sections, is not the only one that has been encouraged by the homestead law. In point of fact the homesteader himself is frequently a speculator, no better than Mr. A. B. of ———, Ontario. Drive north from Wadena, Saskatchewan, on the Nut Lake trail, and you will see, if I am not mistaken, seventeen shacks built by seventeen bachelors—not a woman in sight, nor a child—and frequently neither a horse, nor a cow, nor a man, nor a fair sized field—just the shacks and a few acres of drunken looking sod—not in straight, orderly rows, but broken as if a lawyer, a poet, or a lady's maid had been behind the plow when the deed was done. Where are they? Answer: Off to work or otherwise. They will be back to do homestead "duties" this winter, when the snow is two feet deep. For these "duties," performed by cooking rabbits and oatmeal, sawing wood, smoking tobacco, and very often staying in bed both night and day—"alone with myself and my conscience," the Government will three years hence pay them \$1800.00, not in money, but in land. At least they hope the land will be worth \$11.25 per acre or \$1800 then. If so, they will sell it. If not, they will probably mortgage it for what they can get. At all events they will then leave the country for more genial climes.

The extent to which homesteads have been taken up by bachelors is something of which I have no statistics, although such could no doubt be supplied by the Land Office. I know of one township at present inhabited by thirty-three homesteaders, of which three have families. I know of another township with a similar population where a young girl, at whose father's house I had dinner, remarked that she was the only young girl in that township. "Good for the girl," you may say, but not so good for the country as a whole, and not the best way to promote its rapid development into a farming and a family community.

When driving through the West the fact is that what greets the eye frequently is one shack after another without any signs of real fields, stables for horses and cattle, clothes hanging out to dry on the line, or other evidences of progress, family life and civilization.

We may talk of the standing armies of Europe, but the "homestead army" of Canada will equal them in numbers and expensiveness, in loss of productive labor and in human suffering. We must not forget that someone pays the \$100 per month for the performance of these "duties." The money these men make might just as well be made by the general public and the Government. It is the "unearned increment," the natural rise in the value of the land, and by buying the land on easy terms at \$11.25 per acre, the actual farmer who comes along later and buys it from the bachelor shackbuilder or gopher farmer, would in fact be better off. He would deal direct with the Government, would get easier terms, and could find land nearer town. And the homesteader himself would be better off. He would be doing something more useful to himself and the community. Catching rabbits, cooking oatmeal, smoking tobacco and cogitating upon the mysteries of creation may seem a harmless enough occupation, but the pity is that these young fellows are fit for much better things. While some of them thrive in the wilderness, others are

merely sitting in idleness and dirt on their claims. As a rule, they have but little inducement to work. Some go to town and get drunk and gamble, etc. The homestead laws thus often provide an education of deadening, dreary, soul killing, loafing monotony at Government expense; and impose this life of unproductive loneliness upon good fellows who have committed no crime to merit it except that they are pleased with the idea of getting something for nothing.

To homesteaders like these, what Elbert Hubbard says about soldiers, would seem to be strictly applicable:

"Soldiers do no useful thing—their lives are unproductive, non-creative—they live on the labor of others. They are legal mendicants, and even the dullest realize it, and are in time infected and overcome by the thought.

"A soldier's life is moral and intellectual degradation. A soldier becomes a soldier, and there is one thing that he always kills, and that is time. And to kill time is to kill yourself. There are exceptions, but these prove the rule. God and Nature designed that man should use his energies in useful effort. If he fails to do this he quickly falls a victim of arrested development. The soldier is a pensioner on the state, and to have a pension is to have a disease. A pension destroys the pensioner—vitiates his will, paralyzes his purpose. A soldier is a Remittance Man, and a Remittance Man, like the Devil, is a dead one."

The labor of this vast army of homesteaders is actually lost to the community exactly as if they were polishing brass buttons and shouldering arms, and in point of fact someone pays for the time they squander, and for the useless work they are putting in.

The evil is not merely that these young men, insofar as they actually comply with the law and do not escape its provisions by fraud, are wasting their own time, but their efforts are withdrawn from other parts of the country where they might be accomplishing something. They are taken away from productive farm work in older communities—they will frequently leave an improved farm to go out and "perform" the homestead duties, consisting of one small shack and fifteen acres of sod turned over, in order to get a quarter section of land.

Frauds upon the Homestead Laws.

Fortunately many of them only stay there "in their minds eye, Horatio," or rather "in the inspector's eye." The homestead affidavit associations in the United States were not usually spoken of by their true name, but were duly recognized and accomplished their purpose. They swore for one another and helped one another deceive the inspector. How this is in Canada I do not know. The same temptations are there, however, and you hear some queer stories in the West as to the manner in which the homestead laws work. A certain widow and a certain man are living side by side, and, while they ought to marry, they cannot do so for a period of three years, until the widow has proved up on her homestead. You hear of two bachelors building their shacks side by side, each on his own land, and on January 1st, when the weather is 40° below zero, bachelor A will transfer all his household goods into the shack

of bachelor B, and six months later bachelor B and bachelor A both will move across the line into the other shack, so that they may live together and yet each be performing "duties" for six months of the year upon his own land. Frequently, of course, when two shacks are built close together with a "line" between them the residence in one of these will be merely a pretense and a sham, as the inspectors are usually reasonable and not as inhuman in enforcing the laws as the provisions of the law itself requires them to be.

In the light of the unreasonableness and senselessness of the provision which compels a young man to spend six months a year for three years of his life in midwinter shut up in a shack or kennel, not so very much larger than what would be required for a good sized dog, in the midst of snow drifts, twenty miles from town, it is a question whether it is not better that these laws should be a farce than that they should be enforced. That they frequently are regarded as a farce in the West is well known. The instance of a certain estimable woman who earned her living for three winters as cook at a certain hotel in town while her neighbors made oath that she was at the same time living on her homestead, twenty miles away in the country, occurs to me, and everyone familiar with the West will know of instances where homestead patents have been granted and the applicant has notoriously not been living on the land. The trouble with law breaking of this kind, however, is that the step from law breaking which is useful and harmless to that which is criminal and nefarious is but a short one and the moral contamination from such habitual law breaking is something that should and could just as well be avoided in a new community.

The homesteads may well be called the "poor man's graft," for that is in fact what such a homestead often is. It would seem almost better to give them some money outright and sell the land to real farmers, and if "panem et circenses"—bread and plays—must be provided for the voters, it would seem as well to give to each voter a stated amount of cash from the proceeds of the land office. It would cost no more, it might do them more good, and the moral effects would at least be no worse.

The Difficulties of the Question.

Of course the writer does not wish to disparage the excellent character of many Canadian homesteaders, who are good farmers, have the means to be farmers and have come to Canada to make their farms their homes for themselves and their families. But most of these are equally well able to buy land at a moderate price and on easy terms, and many of them in fact prefer to waste no time and money upon a free homestead far from railroad. As a rule, the homesteaders are not good farmers and would be better citizens if they were not engaged in the homestead grabbing business.

No doubt some of them have done well, as the speed with which the West has rewarded those that went into it has been a surprise to all. To have sold land to almost destitute people like the Doukhobors and Galicians would have been impossible, and still they have prospered after their fashion.

But for these a homestead of eighty acres might have been sufficient. The difficulty is how to devise a law which will fit all classes of settlers. It would

seem as if no hardship would result to the actual homebuilders if it was provided that only married men could take up a homestead, and if it were further provided that instead of fifteen acres cultivated, the homesteader should have fifty acres in cultivation before he obtained his patent. Also the period of residence might well be extended from three years to five years. It is well enough that there should, some place in the country, be some land that can be obtained by intending settlers for nothing. There is no particular harm in providing some place where the impecunious who lacks the means and tools wherewith to farm, can take up his abode and eke out a scanty living in such a way as he is able to.

On the whole, however, looking back upon the experience of the United States, it would seem as if it would have been as well in the States for the Government to have sold the bulk of the land as to have given it away. Many of the vicissitudes of the free land system with their concomitant hardships, suffering and broken lives might have been avoided.

The writer recalls the C. M. & St. P. railway grant of Martin County, Minnesota, in 1881, when land was worth \$6.00 an acre, dotted with homesteaders' shacks, none of whom got the land, since the railway title was confirmed. But the homesteaders had their experience for their pains, as many Canadian homesteaders do, who fail to prove up.

And another recollection crops up of an honest, weak, hardworking Dane, who sat two years through the blizzards on a tree claim in Spink County, South Dakota, while his trees died and the drought harvested his crops, and who finally appeared one day, grizzled and gaunt, in Milwaukee, saying: "They wanted to jump my claim, they said they would shoot me if I didn't move away, and so I moved away!"

On the other hand there were the indemnity lands of Sioux, Osceola and other Iowa Counties which were held by the railway until 1886, when they were worth \$12 to \$15 an acre and were then successfully "jumped" by the homestead shackers. In this case the dare-devil young men made some money. But on the whole it would have been as well for the Government to have made this money, and on the whole the homestead laws in the States have not proved "all beer and skittles" for either the homesteaders or the Government. Had the Government sold the land on easy terms, no one, on the whole, would have been any the worse off. The development of the country would have been more normal and natural, the Government would have had the money, suffering in plenty would have been avoided, and the young men would have found other rewards for their efforts, and their efforts would have been of a kind to do the community more good.

What Canada should know today is: "What percentage of the American homesteads were taken in good faith?" Or rather, "what percentage was kept in good faith and made into farms by the men (or women) that took them?" On this we have no statistics, other than those of the Public Lands Commission cited above. My own estimate would be less than half. That is to say, more than half of the homesteads of the West were farmed—or lived on rather—barely enough to get title from the Government. Someone "sat tight" on them for five years—or swore that he did—and then sold them.

Those of us who are familiar with Western abstracts of title know how rare it is to see an abstract which is free from early transfers.

So, likewise in Canada, probably over half the homesteads will be for sale as soon as the persons that have filed on them have gotten the title away from the Government and securely vested in themselves.

When the two million dollars worth of Doukhobor lands were thrown open suddenly to settlement, the giving away of this vast fortune was placed in the hands of a few policemen, drawing a salary, I believe, of \$15 per month. The problem before them was, of course, a difficult one. What principle should be followed in giving the preference in the distribution of this vast fortune? Should those able to stand out for a couple of days and nights, and willing to expose their health to this hardship have the preference, should dice be cast or lots be drawn—someone perforce had to have the first chance! For a few days the endurance test was carried in effect; after that a free for all scramble (during which it is freely stated those who had paid their way found it) was adopted.

I have no desire to rake up ancient muck, but merely wish to point out that the opening of the Doukhobor Reserve does not redound to the credit of the homestead laws as such.

In a recent speech at Chicago (Dec. 14th, 1907) Ex-Secretary of the Interior, Hitchcock—the man who “cleaned out” the Land Office—said:

“Hyde and Benson were indicted in February, 1904, as the result of the confessions of their accomplices. All sorts of delays have resulted. Next spring, if the principal witnesses are not dead or have not been otherwise gotten rid of, we may have a trial. In the event of an acquittal, the Government prosecution of land frauds will receive a death blow. Until the land laws are amended and the violators of them punished with jail sentences land frauds will flourish.”

“The method of disposing of the public domain has been altogether wrong and should be abolished by the adoption of the sealed bid method. This gives each homeseeker an absolute equality of opportunity.”

“In the case of the opening of more than 500,000 acres of the pasture land of the Kiowa and Comanche Indians, one man, then, and now a member of congress, and another man, then a delegate and now a member of congress, each introduced bills to dispose of this vast tract of superb agricultural land under the homestead law at \$1.25 per acre.”

“The passage of these bills was opposed by the department and fortunately congress declined to enact them, and left the sale to be made under such rules, etc., as the secretary might prescribe. The land was sold under sealed bids, well advertised, and the open competition thus secured, instead of bringing \$1.25 an acre, or \$675,000, sold for an average of over \$12 per acre, amounting to over \$6,000,000.”

The opinion of no one on this question is of more weight than that of Ex-Secretary Hitchcock.

Again, we would like to know, but do not, what percentage of the homesteads now filed on in Canada are filed on for mere delay. The blanketing by land companies in order to do their customers, the farmers they were about to bring in, a good turn and save them some good homesteads, was a temporary short lived matter, lasting only until these customers could come up and file on the land themselves. The filings by ranchers who are trying, by means of blanketing, to retain the use of the land they cannot buy under the present laws are also sometimes spoken of. And so are the homesteads that have been filed on by local schemers, who have no intention of making farms of the land and frequently do not even go to the trouble of making improvements on it, but sell their right quietly to someone else. Drive through any township, not settled with Galicians or other simple folk unable to take advantage of the law, and count the number of homesteads with no improvements on. And count also those that have a mere uninhabited shack on. You will then see that probably half the present Canadian homestead entries also cannot yet be called final, and, while they may give the homesteaders title to the land, they will not yet mean the transformation of the land into an actual improved farm. This will not be done until someone else comes along and buys these homesteaders out after they have obtained their title.

But will not the preemption law be better? This requires another three years' residence, requires fifty acres to be cultivated, and is free from the pauperizing—gift—feature of the homestead law. If severer, it might. But the difference between \$3.00 per acre three years hence and a nominal entry fee is not great. The preemption price ought to be higher, so that a man considering whether to take up a claim will say—not, "how much can I make by taking up this claim?"—but, "do I want that land for a farm at that price?". Then also the preemption law, like the homestead law, aims to limit the acreage each man can secure—it checks steam plow farming and also makes it impossible for the colonizer to secure lands for his customers. And while the preemption law is in the right direction, it does not for the above two reasons seem in its purchase feature to go far enough.

The Homestead Law ought not be the only Land Policy.

Essentially, the Oliver Bill is a homestead and preemption law, and the fault of the homestead law as the only land policy of a great dominion owning a large public domain is, as we have seen, to place a premium on slovenly farming. It gives the best land to the poorest farmer, not only the poorest in means, but the poorest in ability and resources. It places the best machine in the hands of the poorest workman, the gun of greatest efficiency in the hands of the gunner with the lowest record for marksmanship, and vice versa, it places obstacles in the way of the good farmer who comes along and finds that to get land he must either go far from railway, where he has but little inducement to grow crops and get his land there free, or else he must buy someone else out, who has been sitting tight on it for three years or longer. Is there any reason why he should not buy direct from the Government? Or,

if a middleman is needed between the immigrant farmer and the Government, why should this middleman be a homestead shacker, rather than someone who makes colonizing and real estate his business—someone who is familiar with modern methods of immigration?

What, then, is the Ideal Land System?

The alternate section method is bad when imposing speculators land on the settlers for several years until actual farmers buy it. It is good where railroad and colonization companies have brought the settlers in and sold them the odd sections of land at the same time they homesteaded the even ones.

An out and out sale in blocks may encourage speculation, but when sold in solid blocks there is no "dirty trick done to the country," as no one suffers if merely a block is delayed in settlement, except perhaps the railroad which might otherwise carry its freight.

The H. B. Co.,—an avowed non-resident and probably future rack-renting landlord, speculating upon the progress and happiness of the citizens, ought likewise be confined to blocks where it could speculate upon its own improvements instead of upon those of the poor neighboring settlers. The H. B. Co. is perhaps "the dirtiest trick to the country" of all! But whether its unpatedented land can be changed to solid blocks or a maximum price put upon its lands at which it must sell is a legal question and cannot be discussed here.

Taxation may offer a cure for the H. B. Co. and other speculation, but it will not cure the ills of the homestead shackers. Time cures these, when the shackers sell to the farmers. But why must we have this three year period of probation with shackers and gopher farmers at all? Why not sell direct either to actual farmers or to colonizers who will bring these in? Sell with settlement or improvement or breaking conditions and enforce them!

The railroad grants are to good purpose IF these do not get more land than will pay for building the road, and IF they only get land on their own line of road and not somewhere else, where they may be tempted to speculate. They will usually make an effort to get settlers and traffic for their line rather than to speculate in the lands. The experience in Minnesota was that as soon as the railroad lands were taxed they quickly found their way into the hands of actual settlers at a price of from \$10 to \$15, on easy terms.

Why should not the Canadian Government itself sell its land and have a large fund for useful purposes, education, encouragement of arts and manufactures, so as to be able to abolish other taxation, oppressive protective tariffs, etc.?

I quote from a recent number of Forestry and Irrigation. (October 1907):

"The Creek Indians receive a royalty of \$2,000,000 from their oil lands, and an Osage baby is worth \$20,000, the minute it is born. Evidently there are spots where Lo stands high; and this is due to the fact that a "paternal government" safeguarded the interests of the red man while the fool white man was permitted to fritter away his inheritance and share in the national wealth to individual and corporation exploiters. If the white man had been vouchsafed his proper share in the common

prosperity, and the natural resources of the nation had been husbanded as those of the Osage Indians have, a white baby as well as an Osage papoose would be worth \$20,000 the minute it is born.

"This is just what President Roosevelt is proposing to do, even at this late day, in withdrawing certain timber land and coal lands from public entry and preserving them as a public asset.

"There is a whole volume of political economy in this if you can see the point."

"There is a story that the keeper of a fruit stand one warm day fell asleep at her place of business. A wag, noting the situation and seeing a bunch of "take-one" signs on a stack of advertising matter, transferred the signs to the fruit stand and then stepped aside to watch the effect.

"A street arab first grasped the situation and, with a whoop, descended upon the spoil. Others like him followed until, by the time the old lady had been aroused, there was little left of her stock in trade.

"What the wag did for the fruit, the American people, with their theory of a do-nothing Government and their notion that our resources were inexhaustible, have virtually done for pretty much everything in this country worth having. They have scattered their "take-one" signs over the public domain—the lands, forests, gold mines, silver mines, coal mines, oil and gas wells and what-not; they have taught their children to sing "Uncle Sam is rich enough to give us all a farm." And what have they found? Their great highways of commerce, the rivers, competitors of the railways, choked and unnavigable; their desirable public lands practically all appropriated, many of them by gigantic corporations; their gold and silver, iron, zinc, lead, coal, oil, gas, largely in private hands; with the result, for example, that they have found themselves in the midst of a coal famine at a time when the coal supply, actual or potential, could abundantly have met the people's needs and at a reasonable price; their Hudson Palisades turned into a stone quarry, their Niagara in process of conversion into a factory back-yard, their big trees dating back to the time of Solomon or Moses being ruthlessly cut, and their forests destroyed at a rate and by methods that should make the angels weep."

Cannot what has been done in the States still be avoided by Canada?

It is true that there is no reason why there should not be free land somewhere for everybody. But it should not be opened suddenly along a railway line, where such disgraceful rushes for free land as we have seen in the United States will occur, or where they offer temptation for such corrupt favoritism as I am told is sometimes shown quietly and secretly in some Canadian Dominion Land Offices.

With a price of \$15 per acre on all Government land within 2 miles of a station, \$12 within 5 miles, \$10 within 10 miles, \$5 within 15 miles, and free

within 20 or more miles, there would be less temptation for the Dominion Lands agent to seek enrichment by locating "favorites" on favorable places. There would then be land for the landless at all prices and in all sizes of farms.

The manner in which Minnesota sold her school lands is perhaps an ideal. A minimum price of \$5 per acre. Regular semi-annual auction sales. Terms 15 per cent cash and the balance any time on or before 30 years, with 5 per cent interest. This land is now all in the hands of actual farmers who usually did not pay more than from \$5 to \$15 for it.

If a fixed acreage is to be adopted as the standard size farm, as contemplated by the Oliver Bill, something should first be done to study each district with a view to giving it at once the size of farms to which it is naturally adapted, rather than to impose a rigid 160 or 320 acre system artificially on the whole country.

Perhaps the 320 acres of the Oliver Land Bill is what Saskatchewan is best suited for, but there is no reason for 160 or 320 acre farms in the ranching country or in the mountains, and, even on the prairie, is it certain that the big farmer ought to be discouraged? Is there anything evil about the steam plow farmer—the man who farms from two to five sections of land, so that he is to be kept artificially out from certain districts as the Oliver Bill seems to contemplate? Homesteaded or preempted Government land under the terms of this Bill cannot be sold for respectively three or six years, and hence the steam plow farmer during that period at least must either stay away or acquire by fraud the additional land he needs. And yet is not the steam plow farmer after all, more of an acquisition for the country than a Galician, a Bukovinian, a Roumanian, a Salvation Army Innocent or a Russian Jew? Will not the steam plow farmer be a stimulating object lesson in each district as well as a useful employer of labor? Is there any good reason why the present land grant railroads alone should have steam plow farmers, and future railroads and certain districts along the G. T. P., where the new act alone will govern, should have none?

Furthermore, there is no reason to artificially tempt, lure and encourage people to go into the wilderness ahead of time when there is good and cheap land yet to be found closer to railway and nearer home, both in Ontario and Manitoba or Eastern Saskatchewan. The best means to lead the development into more natural channels would seem to be by means of graduated prices on land, and by letting each man buy the acreage he wants and has use for.

This is the function of the colonization companies, to furnish to the settler of some means, land at a fair price, where he can make for himself a real farm—not a fake homestead shack and gopher farm, but a farm with horses and cows and women and babies! A farm where human beings can not merely exist, but can really live and prosper.

And the object of our land laws should be, how best to make the new country over into real farms and real homes for living families—without lonely, isolated homesteaders or absentee land grasping speculators who don't pay taxes.

Conclusion.

To sum up, we want free homesteads somewhere, but not of such value as to be a temptation to gopher farming, land office favoritism or fraud. We want a price on most of the land with easy terms to settlers and colonizers. We want the farmers to be free to have one size of farms in the wheat areas of Southern Manitoba and Eastern Saskatchewan, and another in the ranching country of Alberta and Central Saskatchewan, and probably still another size in the dairy or mixed farming districts, and still another size and area of farm or ranch in the areas north of the Wheat Belt. We want publicity as to when land is opened up. We want a method of sale that is fair and equally open to all—open to colonizers as well as to farmers. Sale by public tender is perhaps the best. We want land speculators taxed. The Oliver Bill meets some of these requirements, but by no means all of them.

The Canadian timber reserve laws are excellent. As to the way in which coal and timber has been given away or "leased," I have nothing to say at present.

As regards farm lands especially, harder homestead duties are wanted—at least five or six years and 30 per cent to be cultivated of the arable land, so as to put an end to gopher farming as well as to the man who, under our present easy three year plan, is too readily tempted to swear falsely and get a share in the "poor man's graft" as the show is at present conducted.

The real crux of the question is that we want as far as possible to get away from all methods of giving away something which is of value for nothing. Why should the Government give away land and not also watches, whiskey or boots? Why should it give away anything either to the rich or to the poor? Why should senators and millionaires get valuable franchises, grants or timber berths free, and why per contra should the poor man get a 160 acre farm which is of value for nothing? Let the whole people profit by the public domain. Where land is worth something put a fair price on it for the benefit of the whole people. The spirit of graft, the spirit of getting dollars you have not worked for, is a spirit a new community ought not foster.

The Oliver Bill gives the minister the power to sell land at \$3 or more, but will he graduate the prices on the land and will he sell except in 160 acre lots to preempts? Is he not more likely to take the broad and easy road of selling all land at \$3 per acre, and of not daring for fear of criticism to sell to anyone except direct to the homestead shakers?

To say that the homestead law must be the only way to dispose of land looks in fact like a confession of insolvency and incapacity. It looks like an admission that in the present corrupt state of Canadian politics, no minister can be found sturdy enough or honest enough to withstand the pressure of the grafters, once the bars are let down to the sale of public lands to the land speculators and dealers. But why cannot the minister be directed to sell by public tender or otherwise freely and openly to all over a wide counter to which all can have access, and why cannot the price on the land be placed high enough to discourage the speculator!—for to such a one, a high price and the interest and taxes accruing on the land will be a deterrent—and at the same time the terms of sale can be made easy so as to attract the bona fide settler

and the colonizer who will bring the settlers in. Breaking or improvement conditions can be attached.

No matter what the political conditions are in the States, the writer cannot believe that Canada has swerved so far from her English traditions that it is necessary to deal with this land question in fear and trembling of an ill considered and unintelligent public opinion. If the political leaders of Canada are all as honest as Mr. Oliver himself, they should be able to take the public into their confidence and sell to all alike and make the price high enough and the terms easy at the same time, so as to avoid an unseemly rush by the grafters and speculators on the one hand, and a desolate "trek" into the wilderness by unfortunate homestead shackers on the other, who are going out to endure privation, loneliness and suffering, not to farm—for they will be too far from railroad for that—but to "sit tight" on their claims, "while the clouds roll by"—until something will happen to make their free claim of sufficient value to either sell or mortgage it.

In the past there is a long record of selling the lands of Canada cheap in return for political support. But why should the sins of the past prevent us from dealing in an intelligent manner with this question in the future? Why cannot even those who have a guilty conscience in this respect vote to place the land on sale now freely and openly to all alike?

In short, to pass a narrow and rigid homestead and preemption bill like the present Oliver Bill, would be to yield to public prejudice and to the public demand for the "poor man's graft," while the highest statemanship should seek to amend it and adopt a broader land policy, making it a rule that no man is to be encouraged to get something for nothing, a policy under which the bulk of the Dominion Land will be sold for what it is worth rather than given away to homestead shackers, gopher farmers and small speculators, and others who will take advantage of the act by fraud.

But isn't denouncing the homestead laws in 1908 to close the door after the steed has gone forth? Hardly. Perhaps as much as half the present homestead filings of the West are likely to be cancelled, since the shackers will often get discouraged so that the Government wins the bet, as explained by the Irishman with whom we began, and a new and harder law could be made to apply both to new and to the abandoned or cancelled homestead land. There is surely no reason to hasten the settling of the country with men who are not farmers and with men of no means, as it was done in the Dakotas, Kansas and Nebraska twenty-five years ago. To encourage hasty and reckless homesteading is to invite the same disaster and reverses as occurred there—to court revulsion and reaction in short. Most of the odd sections in the railroad reserves still remain, on which a graduated minimum price can be put and the land be sold under the sealed bid method, so as to save (by means of this price and by means of harder homestead duties) some purchaseable, and some free land too, in the hands of the Government for the next coming years, for the benefit of new and coming future settlers. Otherwise these will be compelled to buy the land from the speculators or gopher farmers who are now profiting by the present easy homestead laws, and who are likely to profit still more by the proposed law if enacted in its present unamended form. In short, what is needed is a double land policy—sales and homesteads both, and not homesteads and preemption alone, and in this regard the Oliver Bill, excellent as it is in many respects, should be amended.

D. M. FREDERIKSEN

Canora, Sask., November, 1907.

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